

Robert McConnell, Esq.
Jack McConnell Jr., Esq.
Mary Schiavo, Esq.
Motley Rice LLC
321 South Main St.
P.O. Box 6067
Providence, RI 01940
(401) 457-7700

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

Yisel Dean, Independent Administratrix of the)
Estate of Steven Dean, deceased, and on behalf)
of all statutory beneficiaries,)

Plaintiff,)

vs.)

Raytheon Company, a Delaware Corporation,)
Raytheon Aircraft Holdings, Inc., a Delaware)
Corporation, Raytheon Aircraft Company, a)
Kansas Corporation, Raytheon Credit)
Corporation, a Kansas Corporation, Colgan Air)
Inc., a Virginia Corporation d/b/a US Air)
Express,)

Defendants.)

Case No.: 05 CV 10155 PBS

AMENDED COMPLAINT
(Wrongful Death, Negligence,
Breach of Express and Implied
Warranty, Gross Negligence, Unfair
or Deceptive Acts and Practices)

Jury Demand

**PLAINTIFF'S MOTION FOR EXTENSION OF TIME TO COMPLETE
SERVICE OF PROCESS AND SUGGESTIONS IN SUPPORT**

Plaintiff, by counsel, files a Motion for Extension of Time to Complete Service of
Process and in support of said motion states as follows:

1. Plaintiff filed her Complaint on January 27, 2005, and an Amended Complaint on May 25, 2005.
2. Federal Rule of Civil Procedure 4(m) gives Plaintiffs one hundred and twenty (120) days to complete service of process.
3. Plaintiff has not previously requested an extension of time to complete service of process.
4. Fed. R. Civ. P. 4(m) states that:

... the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period. This subdivision does not apply to service in a foreign country pursuant to subdivision (f) or (j)(1).
5. If Plaintiff can demonstrate good cause for failure to timely serve process, the Court is required to extend the time for service. Thompson v. Brown, 91 F.3d 20, 21 (5th Cir. 1996). Good cause has been equated with a reasonable basis for non-compliance within the time specified. McDonalds v. United States, 898 F.2d 466, 467-68 (5th Cir. 1990). In Henderson v. United States, 517 U.S. 654 (1996), the United States Supreme Court acknowledged the Advisory Committee notes, stating: "Most recently, in 1993 amendments to the Rules, courts have been accorded discretion to enlarge the 120-day period 'even if there is no good cause shown.'" Id. at 662.

In the wake of Rule 4(m)'s adoption, a number of circuit courts also have concluded that good cause no longer stands as an absolute prerequisite to extending the time for obtaining proper service of process. Rather, these circuit courts have determined that Rule 4(m) provides a district court with the discretion to extend the time for service

of process even without a showing of good cause. See, e.g., Petrucelli v. Bohringer & Ratzinger, 46 F.3d 1298, 1305 (3d. Cir. 1995); Davies v. Richards, 1999 WL 26913 (4th Cir. 1999); Thompson v. Brown, 91 F.3d 20, 21 (5th Cir. 1996); Panaras v. Liquid Carbonic Industries Corp., 94 F.3d 338, 340-341 (7th Cir. 1996); Adams v. Allied Signal Gen. Aviation Avionics, 74 F.3d 882, 887 (8th Cir. 1996); DeTie v. Orange County, 152 F.3d 1109, 1111 n. 5 (9th Cir. 1998); Espinoza v. United States, 52 F.3d 838, 840-841 (10th Cir. 1995).

6. All defendants except two have been served, and those defendants' registered agents appear to be avoiding service or are no longer at the addresses listed as the address for their registered agent filed with the Secretary of State.

7. Plaintiffs hired a third party process server, MLQ Attorney Services, to perform service of process. An affidavit from the process service will be forwarded from the service to this honorable court, describing their efforts to serve Raytheon Aircraft Credit Corporation and Colgan Air. Plaintiff, despite due diligence, has been unable to perfect service against these two defendants.

Suggestions in Support

Plaintiff brought this action to recover damages she and her family have suffered as a result of losing her husband and their child's father in a plane crash. The plane in which her husband was killed was owned by Raytheon Aircraft Credit Corporation, located in Wichita, Kansas.

That defendant filed with the Secretary of State for the state of Kansas, the name and address of its registered agent is as follows:

Wayne W. Wallace
10511 E Central
Wichita, KS 67206-0000

A copy of the records for the Kansas Secretary of State is attached.

However, when the process server physically went to the above address, the process server was advised by the woman who identified herself as the registered agent's secretary, that she had been instructed to refuse service. The process server returned again to make service, and the second time he was told to wait. As we write these suggestions, the process server has been waiting for over two hours at the office of the Registered Agent for the Raytheon Aircraft Credit Corporation.

In light of the refusal to accept service at the office of the registered agent, summonses were prepared for all officers, including the President, Treasurer and Secretary, and served on their corporate headquarters by leaving a copy with a person over the age of 18.

In attempting to serve Colgan Air at the offices and locations of its registered agents, the process server found Robert F. Mills, the Colgan registered agent for Massachusetts, was no longer at the address filed with the Office of the Secretary of the Commonwealth. Persons at that office stated the registered agent no longer works at that address, which was the address was filed by Colgan as the address of the registered agent. The process service found another address for a person with the same name as the registered agent, at a location undisclosed to the office of the Massachusetts Secretary of State. The server is attempting service at that new offline address but there was no one there during regular business hours when service was attempted. The server will

continue his efforts. Nonetheless, the information Colgan filed with the Secretary of State contains the old address.

The same situation was encountered in attempting alternative service on Colgan in the State of Virginia. Colgan's listed registered agent was no longer at the address listed with the Secretary of State. Another address was found for an individual of the same name, but that office was closed.

Plaintiff requests an additional 30 days to perfect service of process due to the refusal of the office of the registered agent of one defendant to accept service, and due to the failure of another defendant's registered agents to maintain offices to receive service at the addresses on file with the appropriate State authorities.

WHEREFORE, Plaintiff respectfully request an extension of 30 days to effect service in this case until June 26, 2005, and for all other relief just and proper in the premises.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Robert McConnell".

Robert McConnell, Esq.
(BBO No. 550625)

Mary Schiavo
Motley Rice LLC
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P.O. Box 6067
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(401) 457-7700

**The Commonwealth of Massachusetts
William Francis Galvin**

Secretary of the Commonwealth
One Ashburton Place, Boston, Massachusetts 02108-1512
Telephone: (617) 727-9640

COLGAN AIR, INC. Summary Screen

Help with this form

[Request a Certificate](#)**The exact name of the Foreign Corporation:** COLGAN AIR, INC.**Entity Type:** Foreign Corporation**Identification Number:** 541397506**Old Federal Employer Identification Number (Old FEIN):** 000000000**Date of Registration in Massachusetts:** 05/25/1994**The is organized under the laws of:** State: VA Country: USA on: 12/23/1986**Current Fiscal Month / Day:** 12 / 31**Previous Fiscal Month / Day:** 00 / 00**The location of its principal office:****No. and Street:** 10677 AVIATION LANE**City or Town:** MANASSAS**State:** VA **Zip:** 20110 **Country:** USA**The location of its Massachusetts office, if any:****No. and Street:****City or Town:****State:****Zip:****Country:****The name and address of the Registered Agent:****Name:** ROBERT F. MILLS**No. and Street:** 310 BARNSTABLE RD.,**City or Town:** HYANNIS**State:** MA **Zip:** 02601 **Country:** USA**The officers and all of the directors of the corporation:**

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code	Expiration of Term
PRESIDENT	CHARLES J. COLGAN	10677 AVIATION LANE, MANASSAS, VA 20110 USA 10677 AVIATION LANE, MANASSAS, VA 20110 USA	
TREASURER	MARCIA RAY	10677 AVIATION LANE, MANASSAS, VA 20110 USA	

	10677 AVIATION LANE, MANASSAS, VA 20110 USA	
business entity stock is publicly traded:		
The total number of shares and par value, if any, of each class of stock which the business entity is authorized to issue:		
Class of Stock	Par Value Per Share Enter 0 if no Par	Total Authorized by Articles of Organization or Amendments <i>Num of Shares Total Par Value</i>
Total Issued and Outstanding <i>Num of Shares</i>		
No Stock Information available online. Prior to August 27, 2001, records can be obtained on microfilm.		
Consent	Manufacturer	Confidential Data
Partnership	Resident Agent	For Profit
		Does Not Require Annual Report
		Merger Allowed
Select a type of filing from below to view this business entity filings:		
<div style="border: 1px solid black; padding: 2px;"> ALL FILINGS Amended Foreign Corporations Certificate Annual Report Annual Report - Professional Application for Reinstatement </div>		
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Business Entity ID Number: 0053983

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Statement**

Certificate of Good Standing

Contact Info

Letter of Good Standing

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site
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site**

RAYTHEON AIRCRAFT CREDIT CORPORATION

9709 E CENTRAL AVE
WICHITA, KS 672062507

Close Corp [N]
Tax Year End [12]
Date of Incorporation [10/12/1956]
Last Correct Annual Report [12/2004]
Next Annual Report Due Date [04/15/2006]
Extension [00/00/0000]
Forfeiture [07/15/2006]
Expiration [10/12/2056]
State/Country Formation [KS]

Resident Agent

WAYNE W. WALLACE

10511 E CENTRAL
WICHITA, KS 67206-0000
County: SG

Business Entity Type

DOM: FOR PROFIT CORPORATION

Business Entity Previous Name

Name : **BEECH ACCEPTANCE CORPORATION, INC.**

Business Entity Status

CORPORATION IS ACTIVE AND IN GOOD STANDING

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